

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MITCHELL E. BOUYER, SR., et al.,

Plaintiffs,

v.

COUNTRYWIDE BANK, et al.,

Defendants.

No. C 08-5583 PJH

ORDER OF DISMISSAL

Plaintiffs filed the above-entitled action on December 15, 2008, against defendant Countrywide Bank. On April 27, 2009, plaintiffs filed a first amended complaint, adding Diablo Funding Group as a defendant. On June 25, 2009, the court dismissed the claims against Countrywide with prejudice. To date, plaintiffs have failed to file a proof of service of the summons and complaint on defendant Diablo Funding Group. Moreover, the clerk's docket for this case indicates that no process has been issued.

Accordingly, the court finds that the claims against Diablo Funding Group must be dismissed pursuant to Federal Rule of Civil Procedure 4(m), for failure to serve the summons and complaint within 120 days of the date of filing the complaint.

IT IS SO ORDERED.

Dated: October 15, 2009



PHYLLIS J. HAMILTON
United States District Judge